

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

1
2
3 UNITED STATES OF AMERICA,) **Case No. 3:13-CR-00110-BF-1**
4 Plaintiff,)
5 V.) November 8, 2013
6 KAREN LANCASTER MCCUTCHIN,) 10:00 a.m.
7 Defendant.)
8

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE PAUL D. STICKNEY,
UNITED STATES MAGISTRATE JUDGE.

10 APPEARANCES:

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25 Proceedings recorded by digital sound recording;
transcript produced by transcription service.

1 DALLAS, TEXAS - NOVEMBER 8, 2013 - 9:55 A.M.

2 THE COURT: Please be seated.

3 MS. HEATH: Mr. Webster stepped out for a moment, Your
4 Honor.

5 THE COURT: Oh, okay.

6 (Pause.)

7 THE COURT: Court is in session in the matter of
8 United States of America versus Karen Lancaster McCutchin.
9 This is Case No. 3:13-CR-110. This is the time and place for
10 the sentencing in this matter after taking a plea of guilty to
11 Count 1 of the information alleging a violation of obstruction
12 in the execution of a search warrant.

13 I have received a presentence report that I ordered to be
14 completed and it has been completed. Has the Government
15 reviewed this report?

16 MS. HEATH: Yes, Your Honor.

17 THE COURT: And do you have any objections to it?

18 MS. HEATH: No objection, Your Honor.

19 THE COURT: Mr. Webster, have you reviewed this report
20 as well?

21 MR. WEBSTER: Your Honor, the Defendant and I have
22 reviewed it, and we have no objection. There was one
23 clarification, and the clarifications we submitted, but it's of
24 no moment, sir.

25 THE COURT: Okay. What clarifications did you need to

1 go over in this?

2 MR. WEBSTER: No. There was just a 1B1 -- it needed
3 to have a reference in one of the paragraphs to a 1B1.8
4 protection, but we'll waive that protection in light of the
5 content of the paragraph.

6 THE COURT: Oh, all right. Okay. Well, I don't think
7 there's any other relevant conduct to be used there, anyway.

8 MR. WEBSTER: That's correct, Your Honor. Thank you.

9 THE COURT: Okay. All right. Thank you. All right.
10 Now, it's the Court's intention to place Ms. McCutchin on a
11 period of unsupervised probation in this matter. The Court
12 finds that this particular case does not warrant any jail
13 sentence at all. But I'm happy to hear from the Government if
14 you wish to make any argument regarding the sentencing in this
15 matter.

16 MS. HEATH: Your Honor, the only thing the Government
17 would say is, if the Court is going to place Ms. McCutchin on
18 unsupervised probation, we would request that a bond be imposed
19 at the Court's discretion as further punishment for the
20 offense.

21 THE COURT: All right. Thank you. It's my
22 understanding also from the presentence report, which the Court
23 does accept, is that the fine range in this particular matter
24 is \$1,000 to \$100,000, which seems somewhat inappropriate to me
25 that the fine range would be possibly even that high on a

1 misdemeanor offense. But that's what the presentence report
2 says.

3 However, if the Court does impose a fine in this matter
4 after hearing from counsel, the Court will look towards the
5 lowest end of the fine range before imposing it, and that would
6 be based upon the presentence report and Ms. McCutchin's
7 financial ability to pay.

8 The Court is happy to hear from Mr. Webster on behalf of
9 Ms. McCutchin prior to sentencing in this matter.

10 MR. WEBSTER: Yes, Your Honor. Can we step up?

11 THE COURT: Please.

12 MR. WEBSTER: May it please the Court.

13 THE COURT: Yes, sir.

14 MR. WEBSTER: Your Honor, it's obvious you have the
15 correct measure of this case. This was a mother protecting her
16 only chick, a tormented, troubled chick at that rate. You're
17 familiar with the circumstances of Barrett's convictions, and
18 Ms. McCutchin was doing nothing more than the best she could to
19 protect him at this point. She realizes that was wrong. She
20 has not had the opportunity prior to that to be involved with
21 law enforcement. She wasn't aware of search warrants or FBI
22 interviews, and she was protecting Barrett's work product,
23 which she believed was his ticket to reentering society in a
24 meaningful and beneficial way. And it was on the laptop, and
25 in a Charlie Chaplinesque fashion, she tried to conceal it next

1 to the George Foreman grill. It was barking neon lights and it
2 was obviously a poorly thought out idea prompted by the clouded
3 judgment of a mom who was trying to do the best she could.

4 With respect to a fine, Your Honor, we'd ask that --
5 considerations of Ms. McCutchin's financial situation. Her
6 husband graciously gives her an allowance every month and pays
7 her expenses, but she has no income of her own and that any
8 fine would be a burden on the McCutchin family generally, and
9 Jerry specifically.

10 At this point, we'd also like to introduce her family that
11 have been here. Stand up, if you would. Her husband, Jerry,
12 who of course has been supporting her through all this and will
13 continue to support the family during Barrett's -- times, and
14 Kate Fulton, her kid sister, who will always be her kid sister,
15 and Mrs. Betty Lancaster, her mom, now the matriarch of the
16 Lancaster family. If called to testify, they'll say that this
17 is out of character for Karen. She is the big sis that always
18 took everybody under her wing, and was doing nothing more than
19 what big sis's and then moms do.

20 Ms. McCutchin would like to address the Court.

21 THE COURT: All right. Ms. McCutchin, I'm happy
22 to hear from you.

23 THE DEFENDANT: Yes, Your Honor. I just, I made a
24 mistake and I think my better judgment was clouded by my
25 maternal instinct. So, obviously, my focus was just to

1 protect my son. But that was a mistake, and I'm sorry.

2 THE COURT: I appreciate that. Thank you. What
3 other matters would the Government like to address at this
4 time before I impose sentence?

5 MS. HEATH: No other matters at this time, Your
6 Honor.

7 THE COURT: All right. Mr. --

8 MR. WEBSTER: Your Honor, for the record, we paid the
9 \$25 mandatory special assessment.

10 THE COURT: Oh, okay. All right.

11 MR. WEBSTER: So there is no housekeeping matters
12 left.

13 THE COURT: All right. Thank you. Is there any
14 reason why I should not pronounce sentence at this time? Mr.
15 Webster?

16 MR. WEBSTER: No, Your Honor.

17 THE COURT: And anything further you'd like to say to
18 the Court, Ms. McCutchin?

19 THE DEFENDANT: (no audible response)

20 THE COURT: All right. Thank you. The Court does
21 impose a sentence of probation. The period of time of
22 probation shall be the remaining of one year. When was
23 McCutchin arrested?

24 MR. WEBSTER: She voluntarily appeared, Your Honor, on
25 her first instance, on the entry of the guilty plea, which was

1 --

2 THE COURT: Was that May 3rd?

3 MR. WEBSTER: It was May 3rd.

4 THE COURT: May 3rd. All right. So, that's six
5 months ago. So, I'm placing her on six months remaining
6 probation. In essence, what I am doing is, because you've been
7 on pretrial supervision in this matter, which is probably a
8 little bit more onerous than the conditions that I'm going to
9 impose for probation, I am placing you on a period of probation
10 for an additional six months. That is unsupervised probation.
11 While on probation, you're not to commit any crime, and you're
12 to report to the Probation Office if you have any instance
13 where you have any contact with law enforcement whatsoever so
14 that they know what's going on in this matter.

15 The Court finds that any service of sentence of
16 imprisonment would be inappropriate in this matter for a number
17 of reasons, one of which is this offense is not likely to ever
18 have a situation where it could occur again. In other words,
19 this was a one-time offense. Now that Barrett is out of the
20 house and you have no contact other than visitation with him
21 and so forth, and the FBI has completed its investigation, at
22 least towards your residence, I would guess, that I just can't
23 see that, the situation, you would find yourself in again. I
24 have no other reason to believe that you would be involved in
25 any other criminal activity.

1 In addition to that, the Court feels strongly that the
2 punishment that you've received for the public ridicule as well
3 as being out and exposed to the public in this particular light
4 has been sufficient punishment to deter you to committing any
5 other acts.

6 In addition, any sentence of imprisonment would not serve
7 to deter anyone, nor would it serve to benefit the Government
8 or the public at large. It certainly wouldn't do any good for
9 you to be imprisoned in this matter.

10 The Court has considered the full term of up to five years'
11 probation and does find that the one year and giving credit for
12 the time on pretrial release, so an effective sentence of six
13 months of unsupervised probation, is appropriate.

14 The Court does impose a fine. The Court has considered, in
15 the amount of fine, the basis or the ability for the Defendant
16 to pay the fine, as well as the fact that this offense did
17 cause the Government great expense in its investigation as well
18 as needs to be a deterrence to others. The Court does impose a
19 fine in the range of \$1,000, or in the total amount of \$1,000,
20 to be paid over the next six months in installments that the
21 family is able to pay.

22 There is no restitution in this matter. Restitution is not
23 applicable.

24 The Court finds that this sentence would be in keeping with
25 all the factors listed in 18 U.S.C. Section 3553. The Court

1 finds that the presentence report is accurate and is part of
2 the record, but it's still under seal.

3 What other matters should I do as far as the Government is
4 concerned in imposing sentence in this matter?

5 MS. HEATH: No --

6 THE COURT: Oh, the \$25 special assessment will be
7 imposed as well, and that's already been paid.

8 MS. HEATH: Yes. It's my understanding that's already
9 been paid, Your Honor. Nothing else from the Government.

10 THE COURT: All right. Any other matters?

11 MR. WEBSTER: No, Your Honor. Thank you.

12 THE COURT: All right. Good luck to you, Ms.
13 McCutchin. You know, and I feel for you, as a parent. It's a
14 difficult situation when you've got a child that is involved in
15 this, and I know you did the best you could. All right. Good
16 luck to you. Thank you.

17 MR. WEBSTER: Thank you, Your Honor.

18 THE COURT: We stand adjourned as to that matter.

19 (Proceedings concluded at 10:07 a.m.)

20 --oOo--

21 CERTIFICATE

22 I certify that the foregoing is a correct transcript from
23 the digital sound recording available of the proceedings in the
above-entitled matter.

24 /s/ Kathy Rehling

06/26/2014

25 _____
Kathy Rehling, CET**D-444
Certified Electronic Court Transcriber

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